

1 BRIAN S. KREGER, State Bar No. 106707
2 LAMBERTO & KREGER
3 160 W. Santa Clara St., Suite 1050
San Jose, CA 95113
Telephone: (408) 999-0300
Facsimile: (408) 999-0301

4 Attorneys for Plaintiffs
5
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA-SAN JOSE DIVISION

10
11 JASBIR GILL, MAHMOUD KEDKAD,

Case No. C 07-04112PVT

12 Plaintiffs,
13
14 vs.
15 KNOWLEDGESTORM, INC. a corporation,
DOES 1 THROUGH 50,

16 Defendants.
17
18
19

**PLAINTIFF KEDKAD'S
APPLICATION FOR ORDER TO
ENLARGE TIME TO FILE THE
OPPOSITION TO THE MOTION
FOR SUMMARY JUDGEMENT
AGAINST PLAINTIFF KEDKAD
PURSUANT TO CIVIL L.R. 6-3
AND L.R. 7-11**

SUMMARY JUDGEMENT DATE:
June 3, 2008

TIME: 10:00 a.m.
COURTROOM: 5

21
22 TO DEFENDANT AND ITS ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that plaintiff Kedkad hereby does apply for an order to
24 permit plaintiff Kedkad to file an opposition to the Motion for Summary
25 Judgement.

26 This motion is based upon the facts set forth in the declaration of Brian
27 S. Kreger that good cause and the interests of justice exist to permit plaintiff to
28 file the opposition on or before May 20, 2008. No previous requests to change

1 time have been made.

2 This case involves claims by two former employees of defendant, Jasbir
3 Gill and Mahmoud Kedkad, who claim racial harassment. This matter is set for
4 hearing on two Summary Judgments to be heard on June 3, 2008. Trial is set
5 for August 4, 2008. Opposition to the motions were due on May 12, 2008.
6 For the reasons set forth below, plaintiff Kedkad requests an order of the Court
7 to permit the filing and the Court's consideration of his opposition papers which
8 were filed and served on May 20, 2008.

9 On or about May 1, 2008 plaintiff's counsel arrived back in his office
10 after attending depositions in Atlanta, Georgia in this case. Upon arriving in the
11 office on May 1, 2008, plaintiff's counsel learned that defendant had served
12 hard copies of a Motion for Summary Judgement with respect to plaintiff Gill
13 only.

14 The service of the papers included two hard copies of each of the Gill
15 motion papers, but did not include any motion with respect to plaintiff Kedkad.
16 As plaintiff's counsel believed that the hard copy service of the papers by
17 defendant contained all of their moving papers, he did not realize that a motion
18 had been filed with respect to Kedkad also. Plaintiff's opposition to the Gill
19 motion (and the Kedkad motion) were due on May 12, 2008 and opposition to
20 the Gill motion was timely filed on or about May 12, 2008. However, no
21 opposition was filed to the Kedkad motion was filed on May 12th.

22 On May 19, 2008 plaintiff's counsel received a call from Ms. Jackson in
23 Magistrate Trumbell's chambers asking if plaintiff Kedkad was intending to
24 oppose the Motion for Summary Judgement in the Kedkad matter. Plaintiff's
25 counsel advised her that he was not aware of it and certainly would want
26 oppose it.

27 Upon learning of the Kedkad motion on May 19, 2008, an opposition to
28 the Kedkad motion was filed and served on May 20, 2008 and a request to

1 defense counsel for stipulation was made. The evidence submitted in the
2 opposition to the Kedkad motion is identical to the evidence submitted in the
3 Gill matter. The Memorandum of Points and Authorities is also essentially the
4 same as it deals with the same law with respect to a hostile work environment.
5 The only difference is that the Kedkad action does not involve a retaliation
6 claim.

7 On May 21, 2008 defense counsel indicated that they would not
8 stipulate to changing the time to file the opposition, thus necessitating this
9 application for an order.

10 The legal issues with respect to the matters raised in the Kedkad Motion
11 for Summary Judgement are the same as those raised in the Gill motion and the
12 legal authorities relied upon by plaintiff and defendant concerning the legal
13 standard for a hostile work environment are the same. There is no prejudice to
14 defendant and it is not expected that it would necessitate any change in the
15 trial date or the hearing date, although, plaintiff is of course amenable to any
16 change in those dates if the Court or defendant believe it necessary.

17

18 Dated: May 22, 2008

LAMBERTO & KREGER

19

20

By: /s/ Brian S. Kreger
BRIAN S. KREGER
Attorneys for Plaintiffs

21

22

23

24

25

26

27

28